MT LEGISLATIVE HISTORY

Chapter 54 19 79

Bill H 66 S _____ Original bill & hist. ✓ C

H. Committee on Hwys & Transp. S. Committee on Hwys & Transp.

Hearing Date(s) 1-16 ___C Hearing Date(s) 2-8 ___C

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Date Out 1-18 ___C 2-8 ___C

BEST COPY AVAILABLE

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 66

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 69-12-323, MCA, TO AMEND THE TIME PERIOD WITHIN WHICH THE PUBLIC SERVICE COMMISSION IS REQUIRED TO MAKE DECISIONS ON MOTOR CARRIER CERTIFICATE APPLICATIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-12-323, MCA, is amended to read:

"69-12-323. Decision on application. (1) The commission must issue, within 90 60 days from and after the date of the ~~filing~~ hearing of said application, its finding, order, or decision on said application and the evidence presented in support thereof at the time of said hearing.

(2) If after hearing upon application for a certificate, the commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued. In determining whether a certificate should be issued, the commission shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad or other existing transportation agency and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout 12 months of the year and the effect which the proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby.

(3) The commission may issue the certificate as prayed for or issue it for the partial exercise only of the privilege sought and may attach to the exercise of the rights granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require. When a certificate has once been issued to a motor carrier as provided in this part, such certificate shall continue in force until terminated by the commission for cause as herein provided or until terminated by the owner's failure to comply with 69-12-402."

-End-

HIGHWAYS AND TRANSPORTATION COMMITTEE

46 Legislature
Page 1

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 27	Amend Section 60-5-106, MCA, pertaining to controlled-access highways	Jan. 9	Baeth	Jan. 18	DO PASS	Jan. 18
HB 28	Limit the application of standards for permitted out-door advertising to certain types of signs.	Jan. 9	Kanduch	Jan. 18	DO PASS, place on Consent Calendar	Jan. 18
HB 55	Clarifies the conditions under which Class C carriers are considered to be operating as Class B carriers.	Jan. 9	Uhde	Jan. 16	DO PASS. Place on Consent Calendar	Jan. 16
HB 65	Amends to make the section applicable to applications by Class D carriers and to requests for transfers of authority and to clarify, etc.	Jan. 9	Uhde	Jan. 16	DO PASS. Place on Consent Calendar	Jan. 16
HB 66	Amends the time period within which the Public Service Com-mission is required to make decisions on motor carrier certificate applications.	Jan. 9	Cooney	Jan. 16	DO PASS AS AMENDED	Jan. 18
HB 67	Amends to permit motor carrier supervisors to request produc-tion of documents relating to the driver of a vehicle and in d[illegible] t[illegible]	Jan. 9	Cooney	Jan. 16	DO PASS AS AMENDED	Jan. 18

January 16, 1979

The House Committee on Highways and Transportation convened in Room 20 of the Capital Annex on Tuesday, January 16, 1979, at 1:30 p.m., with Chairman Baeth presiding and fifteen members present. Absent was Representative Feda.

Chairman Baeth opened the meeting to a hearing on HB 55.

HOUSE BILL 55 REPRESENTATIVE JACK UHDE, the chief sponsor, introduced the bill. He said the bill is by the request of the Public Service Commission and is to clarify the conditions under which Class C carriers are considered to be operating as Class B carriers. He said this bill is for the protection of the Class B carriers as Class B carrier rates are regulated under the Public Service Commission while Class C rates are not. This bill regulates the number and length of the contracts of a Class C carrier.

WAYNE BUDT, Montana Public Service Commission, spoke in support of the bill. He said the bill specifies that if a Class C carrier has more than six contracts and each contract is for more than 180 days he would be considered to be a Class B carrier and would come under the Public Service Commission regulations. A copy of his testimony is exhibit 1 and part of the minutes.

During questions from the committee Representative Lien asked Mr. Budt what kind of haulers fall under the Class C classification. He said since a major concern of his in his district is independent livestock and grain haulers, he wanted to know if this bill would adversely affect them. Mr. Budt responded that grain haulers are unregulated and livestock haulers are under the Class B classification. Mr. Budt said a Class C carrier could be a hauler of almost any product: petroleum, coal, logs, meat, etc. The distinction being that he hauls it under contract for a specific mine(s) or company(ies), while a Class B carrier holds himself out to serve all parties who request service. Rep. Fabrega questioned what the purpose was for being classified as a C. Mr. Budt responded that some carriers do not want to file rates with the PSC. They deal with a small number of people and arrangements are made privately between them. Under Class B a tariff is set up and charged to all. He said as far as license fees are concerned he was not aware of any difference between the two carriers. He said the bill was to keep the Class C carriers from being in competition with the Class B carriers.

Chairman Baeth closed the hearing on HB 55 and opened it to HB 65.

HOUSE BILL 65 REPRESENTATIVE JACK UHDE, the chief sponsor, said this bill is also by the request of the Public Service Commission, and its purpose is to include Class D carriers

in this section of the law, and it provides that if there are no objections to an application for a motor carrier certificate no hearing would need to be held.

WAYNE BUDT, Montana Public Service Commission, was the next proponent speaker. He said the bill is to eliminate the need for hearings on unprotested authority applications, and to insert Class D into the statute as a matter of housekeeping as the Class D designation was approved by the 1977 Legislature. He said the reasons for the bill is to reduce applicant expense and to reduce hearing and travel expense for the Commission.

LARRY HUSS, Montana Motor Carriers, was the next proponent speaker. He said this could save a small carrier from the useless and burdensome expense of having to hire a lawyer and the other attendant expenses for a hearing and so a good idea. He said the first part about including Class D carriers would correct an oversight.

WILLIAM J. OPITZ, Montana Public Service Commission, spoke next as a proponent. He said in December of 1978 the Commission conducted a hearing on a taxicab PC&N in Hardin. There were no opponents to the PC&N but still the Commissioner and a court reporter spent two days traveling to Hardin to conduct a fifteen minute hearing. He said the Commission unanimously supports the passage of HB 65.

As there were no questions from the committee members, Chairman Baeth closed the hearing on HB 65 and opened the meeting to a hearing on HB 66.

HOUSE BILL 66 REPRESENTATIVE MIKE COONEY, the chief sponsor, said this bill was at the request of the Public Service Commission. He said it is to change from 90 days from filing to 60 days from the hearing the time period when the commission must issue a decision on a motor carrier certificate application.

WAYNE W. BUDT, Montana Public Service Commission, spoke as a proponent. He said this would give time for the transcript to be prepared and time to file briefs by the applicant and the protestant. He felt sixty days would be a fairly good time and he was hopeful the Commission could operate within this time period.

LARRY HUSS, Montana Motor Carriers, spoke as an opponent. He said the current time period is usually ignored and it usually takes about six months or longer and that these delays are at times occasioned by the carriers themselves. He said one of the important factors in going from the filing rather than the hearing date is that you have a starting point. He felt 90 days from the filing

date was insufficient time for the PSC and suggested an amendment that would make it 180 days from the date of completed filing. He felt they could follow that and it would also give the PSC time to do their work. A copy of his suggested amendments is exhibit 2 of the minutes.

During the questions from the committee, Rep. Lien asked the Public Service Commision representatives how they felt about the suggested amendment. Mr. Opitz said the commission could support the adoption of the amendment but he felt a specific waiver provision, stating "at the request of the applicant the time period could be extended," should be granted to the commission in the event of unforeseen problems in accomplishing the task. He said this could prevent the commission from acting negatively to a request and the applicant having to refile and pay another filing fee.

Chairman Baeth closed the hearing on HB 66 and opened the meeting to a hearing on HB 67.

HOUSE BILL 67 REPRESENTATIVE MIKE COONEY, the chief sponsor, said this bill was at the request of the Public Service Commission and would clarify the statutes to the fact that supervisors of motor carriers have the authority to check papers relating to drivers (log books, medical certificates). He said this was basically for safety purposes.

WAYNE BUDT, Montana Public Service Commission, spoke as a proponent. He said they already feel they have the authority to check these items now but this bill would clarify the fact that drivers are covered.

During the questions from the committee, Rep. Tropila asked how many extra FTEs this would require. Mr. Budt assured him that no more would be needed. Rep. Tropila questioned the clearness of the wording as to the inspections. He felt the PSC might be becoming involved with work intended for the Highway Patrol. Chairman Baeth said he would have the lawyer assigned to the committee check on this bill to be sure it says what it is claimed to say.

Chairman Baeth closed the hearing on HB 67 and opened the meeting to an executive session.

EXECUTIVE SESSION

HOUSE BILL 55 Rep. Tropila moved that HB 55 do pass. The bill passed unanimously with those present. Rep. Cooney moved that since the bill had received a unanimous vote to have it put on the consent calendar. This motion also passed unanimously.

The House Highways and Transportation Committee convened in Room 20 of the Capital Annex, on January 18, 1979, at 1:34 p.m. with Chairman Baeth presiding and all members present. Chairman Baeth opened the meeting to a hearing on House Bill 74.

HOUSE BILL 74 REPRESENTATIVE R. BUDD GOULD, the chief sponsor, said this was a good bill to sponsor as it was a very simple one. He said it was at the request of the Attorney General and he would now turn it over to the Highway Patrolman present.

BUD GARRICK, Montana Highway Patrol, said all this bill does is bring Montana law into line with federal standards and allows the smaller vehicle to meet the requirements on taillight distance. It changes the law for the minimum height requirement from 20 inches to 16 inches.

During questions from the committee, Rep. Wood asked Mr. Garrick if he could foresee any problems with lowering this distance and Mr. Garrick said no.

Chairman Baeth closed the hearing on HB 74 and opened it to HB 69.

HOUSE BILL 69 REPRESENTATIVE EDWARD LIEN, the chief sponsor, said this bill is at the request of the Public Service Commission and is basically a bill to eliminate unnecessary notification.

WAYNE BUDT, Public Service Commission, said this bill would remove the requirement of notifying railroad companies and the Department of Highways on every authority application. He said this would reduce costs and the railroad is not interested in cab companies, bus lines, etc. He said they would continue to notify the Highway Department on certain things like heavy hauling, coal and others as they request.

Chairman Baeth closed the hearing on HB 69 and opened it to HB 70.

HOUSE BILL 70 REPRESENTATIVE EDWARD LIEN, the chief sponsor, said this bill is also at the request of the Public Service Commission. He said this bill could eliminate a hearing and attendant costs if there are no protestors.

WAYNE BUDT, Public Service Commission, said this bill would allow the Public Service Commission just to grant a rate increase if all protests are withdrawn and the PSC determines the rates are justified. He said this would eliminate the cost and time of a hearing and save money and speed up the regulatory process.

Chairman Baeth closed the hearing on HB 70 and opened the meeting to HB 28.

HOUSE BILL 74 Rep. Kanduch voted do pass. Motion carried unanimously. Rep. Kanduch moved that HB 74 be placed on the consent calendar. Motion carried unanimously.

HOUSE BILL 66 Rep. Lien moved the Montana Motor Carrier's amendments which are attached to the minutes and exhibit 1. He said he liked the wording of the amendments as it doesn't give the PSC an open end and does set a date. He felt they were well thought out and complimented the author. Chairman Baeth called for a vote and the amendments were adopted unanimously with those present (Rep. Keyser had left). Rep. Kropp moved the bill as amended do pass. The motion carried unanimously with those present (Keyser absent).

HOUSE BILL 67 Rep. Cooney moved a suggested amendment on page 2, line 13, following "vehicles." to insert "The scope of the inspections is limited to the enforcement of the provisions of Title 69, chapter 12." He said this was a concern of Rep. Tropila's when the bill was heard that the PSC might get into some of the duties of the Highway Patrol. Chairman Baeth called for a vote and the motion passed unanimously. Rep. Tropila then suggested an amendment on page 2, line 5, to strike "making arrests" and to insert "issuing citations." Rep. Kanduch moved this amendment and it was adopted unanimously. Rep. Magone moved the bill as amended do pass. The motion passed unanimously (Rep. Keyser absent).

Meeting adjourned at 1:35 p.m.

Respectfully submitted,

William R Baeth
WILLIAM R. BAETH, Chairman

Emelia Satre, Secretary

SENATE COMMITTEE ON HIGHWAYS AND TRANSPORTATION

BILL NUMBER	DATE RECEIVED	TITLE	SPONSOR	HEARING	ACTION
HB66	1-24-79	An act to amend section 69-12-323, MCA, to amend the time period within which the public service commission is required to make decisions on motor carrier certificate applications.	COONEY (Kolstad)	2-8-79	BE CONCURRED IN 2-8-79
HB67	2-6-79	An act to amend section 69-12-203, MCA, to permit motor carrier supervisors to request production of documents relating to the driver of a vehicle and in so doing to extend the existing authority of the highway patrol and the department of highways to have the same power with respect to drivers.	COONEY	3-1-79	BE CONCURRED IN 3-8-79
HB69	1-24-79	An act to amend sections 69-12-321 and 69-12-322, MCA, to clarify the notice requirements for hearings on applications for motor carrier certificates.	LIEN (Hager)	2-8-79	BE CONCURRED IN AS AMENDED 2-8-79
HB70	1-24-79	An act to amend section 69-12-505, MCA, to revise and clarify the provisions relating to suspension of proposed revisions of motor carrier rates and classifications, providing for vacating a suspension.	LIEN (Hazelbaker)	3-1-79 Thursday	BE CONCURRED IN 3-1-79

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

February 8, 1979

The Fourteenth meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on the above date in Room 410 of the State Capitol Building at 1:00 p.m.

ROLL CALL: All members of the committee were present with the exception of Senator Hazelbaker.

CONSIDERATION OF SENATE BILL 113: Dave Cogley from the Legislative Council explained the three amendments to Senate Bill 113 to the committee members. He passed out information pertaining to the 1st amendment (Exhibit "A").

William Romine told the committee that DWI requires that a person be in the act of physical control. He said you can be picked up for DWI for just being in the car, with the keys in your pocket, sleeping, sitting, etc. It does not matter if you are not in control of the car.

Senator Kolstad said he questioned that.

Mr. Romine said it has happened in Montana and is on the books.

Dave Cogley told the committee a man was arrested in Kalispell and was charged with DWI and the courts dismissed the charge, because he was in his driveway. There is confusion and it does exist.

Chairman Etchart told the committee he thought Senator Hazelbaker's Amendment No. 2 is a substantive change and that it should not be included in the amendments to this bill.

Senator Hager made the motion to DO PASS Amendments 1 and 3. The motion carried unanimously.

Senator Graham moved to DO PASS AS AMENDED Senate Bill 113. The motion carried unanimously. Senator Graham will carry the bill with Senator Hager's help.

COMMITTEE BILL: Senator Hager made the motion that the Highway and Transportation Committee introduce a bill known as LC 1866/01 as a Committee Bill. It is an act to provide for the removal and disposal of abandoned motor vehicles on private property; amending sections 61-8-356 and 61-12-401, MCA.

The motion carried unanimously to DO PASS the committee bill.

Mr. William Opitz.

Mr. Opitz, replied, Yes.

Senator Hager asked Mr. Huss what less than 10 days and more than 60 refers to.

Mr. Huss replied it is the time to set hearing.

Chairman Etchart asked if someone did protest, is there a provision in the law that the hearing would be granted.

Mr. Huss said, Yes, in Section 2.

Chairman Etchart asked if there were any further questions. There being none the hearing was closed.

CONSIDERATION OF HOUSE BILL 66: Representative Cooney, District 83, Butte, told the committee he was asked to carry House Bill 66 by the Department of Public Service Regulation. This is an act to amend section 69-12-323, MCA, to amend the time period within which the public service commission is required to make decisions on motor carrier certificate applications. He then read Section 1, line 12 through 19 to the committee. (Please refer to bill.) The Department needs to have this extra time to make the final decision, transcription, file briefs, etc. He introduced Wayne Budt from the PSC.

Wayne Budt, Public Service Commission told the committee if there are protests, it will be set for hearing. Final decisions come from the commission within 180 days. There are some, such as statewide application for building materials that can take more time to get done. We need to expand that deadline, so that people who need extra time, due to illness, etc. can have more time.

Chairman Etchart asked if there were any other proponents.

Larry Huss, Montana Motor Carriers told the committee they support this bill with the amendments that are included by the PSC.

Chairman Etchart asked if there were any opponents. There were none. He asked the committee if they had any questions.

Senator Kolstad asked if the time limit only applied if the applicant asked for it.

Representative Cooney, said yes, 180 days plus applicant's request.

Senator Kolstad asked him if the applicant request more time, then it is an open end thing.

Representative Cooney said he would have to state a date for the dealine.

There being no further questions, the hearing was closed.

ACTION ON HOUSE BILL 66:

Senator Kolstad made the motion that House Bill 66 be concurred in.

The motion carried unanimously. Senator Kolstad will carry the bill on the floor of the Senate.

ACTION ON HOUSE BILL 69:

Senator Hager made the motion to adopt the amendments to House Bill 69. The motion carried unanimously.

Senator Hager made the motion that House Bill 69 be concurred in as amended. The motion carried unanimously.

Senator Hager will carry the bill on the floor of the Senate.

2-5-79

ROLL CALL

Highways COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Mark Etchart, Chairman	✓		
Tom Hager, Chairman	✓		
Frank W. Hazelbaker			
Allen C. Kolstad	✓		
Carroll A. Graham	✓		
Dave Manning	✓ late		
John E. Healy (Jack)	late		

Each Day Attach to Minutes.

SENATE

SENATE COMMITTEE Highways & Transportation

Date 2-8-79 House Bill No. 66 Time

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom V. Hager, Chairman	✓	
Frank W. Hazelbaker		
Allen C. Kolstad	✓	
Carroll A. Graham	✓	
Dave Manning		
John E. Healy	✓	

Carol Fraser
Secretary

Mark Etchart
Chairman

Motion: Do Pass

(include enough information on motion--put with yellow copy of committee report.)

NAME: Larry Huss DATE: 2/8/77

ADDRESS: 107 7th

PHONE: 442-8070

REPRESENTING WHOM? Mont Motor Carriers

APPEARING ON WHICH PROPOSAL: HB 66

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William J. Opitz DATE: 2/8/79

ADDRESS: 2 Wood Ct Helena, Mont

PHONE: 449-3007

REPRESENTING WHOM? MPSC

APPEARING ON WHICH PROPOSAL: HB-66

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: The bill would allow an applicant to request an additional time for the Commission to render a decision beyond 180 days. The sickness may be an example of the need.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Wayne Budd DATE: 2/8/79

ADDRESS: 1227 11th Ave

PHONE: 449-2549

REPRESENTING WHOM? Mont Public Service Comm

APPEARING ON WHICH PROPOSAL: H B 66

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Time for transcript
Time to file briefs by all parties

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

February 8 19 79

MR. President:

We, your committee on Highways and Transportation

having had under consideration House Bill No. 66

Respectfully report as follows: That House Bill No. 66

DO PASS

SENATOR MARK ETCHART Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 66

INTRODUCED BY COONEY

BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 69-12-323, MCA, TO AMEND THE TIME PERIOD WITHIN WHICH THE PUBLIC SERVICE COMMISSION IS REQUIRED TO MAKE DECISIONS ON MOTOR CARRIER CERTIFICATE APPLICATIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-12-323, MCA, is amended to read:

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(2) If after hearing upon application for a certificate, the commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued. In determining whether a certificate should be issued, the commission shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad or other existing transportation agency and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout 12 months of the year and the effect which the proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby.

(3) The commission may issue the certificate as prayed for or issue it for the partial exercise only of the privilege sought and may attach to the exercise of the rights granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require. When a certificate has once been issued to a motor carrier as provided in this part, such certificate shall continue in force until terminated by the commission for cause as herein provided or until terminated by the owner's failure to comply with 69-12-402."

-End-

REFERENCE BILL